

Article 4. ADMINISTRATIVE ACTIONS**101191 DENIAL OF INITIAL LICENSE****101191**

- (a) Except as specified in Section 101181, which provides for issuance of a provisional license based upon substantial compliance and urgent need, the licensing agency shall deny an application for an initial license if it is determined that the applicant is not in compliance with applicable law and regulation and shall issue the denial in accordance with Health and Safety Code Section 1597.11.
- (1) The licensing agency shall have the authority to deny an application for initial license, if the applicant has failed to pay any civil penalty assessments pursuant to Section 101209 and in accordance with a final judgment issued by a court of competent jurisdiction, unless payment arrangements acceptable to the licensing agency have been made.
- (2) An application for initial licensure shall not be denied solely on the basis that the applicant is a parent who has administered or will continue to administer corporal punishment, not constituting child abuse as defined in Section 11165, subdivision (g) of the Penal Code, or Section 1531.5(c) of the Health and Safety Code, on his/her own child(ren).

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- (A) Section 11165, subdivision (g) of the Penal Code states:

Child abuse means a physical injury which is inflicted by other than accidental means on a child by another person. Child abuse also means the sexual assault of a child or any act or omission proscribed by Section 273a (willful cruelty or unjustifiable punishment of a child) or 273d (corporal punishment or injury). Child abuse also means the neglect of a child or abuse in out-of-home care.

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- (B) Section 273(a) of the Penal Code states:

Any person who, under circumstances or conditions likely to produce great bodily harm or death, willfully causes or permits any child to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of such child to be injured, or willfully causes or permits such child to be placed in such situation that its person or health is endangered, is punishable by imprisonment in the county jail not exceeding one year, or in the state prison for 2, 4 or 6 years.

Any person who, under circumstances or conditions other than those likely to produce great bodily harm or death, willfully causes or permits any child to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of such child to be injured, or willfully causes or permits such child to be placed in such situation that its person or health may be endangered, is guilty of a misdemeanor.

- (C) Section 273(d) of the Penal Code states:

Any person who willfully inflicts upon any child any cruel or inhuman corporal punishment or injury resulting in a traumatic condition is guilty of a felony, and upon conviction thereof shall be punished by imprisonment in the state prison for 2, 4 or 6 years, or in the county jail for not more than one year.

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(D) Section 1531.5(c) of the Health and Safety Code states:

Child abuse means a situation in which a child suffers from any one or more of the following:

1. Serious physical injury inflicted upon the child by other than accidental means.
2. Harm by reason of intentional neglect or malnutrition or sexual abuse.
3. Going without necessary and basic physical care.
4. Willful mental injury, negligent treatment, or maltreatment of a child under the age of 18 by a person who is responsible for the child's welfare under circumstances which indicate that the child's health or welfare is harmed or threatened thereby, as determined in accordance with regulations prescribed by the Director of Social Services.
5. Any condition which results in the violation of the rights or physical, mental, or moral welfare of a child or jeopardizes the child's present or future health, opportunity for normal development, or capacity for independence.

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- (b) If the application for an initial license is denied, the licensing agency shall mail the applicant a written notice of denial.
- (1) The notification shall inform the applicant of and set forth the reasons for the denial, and shall advise the applicant of the right to appeal.

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- (c) An applicant shall have the right to appeal the denial of the application pursuant to Health and Safety Code Section 1596.879.

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- (1) Health and Safety Code Section 1596.879 provides in part:

Immediately upon the denial of any application for a license or for a special permit, the department shall notify the applicant in writing. Within 15 days after the department mails the notice, the applicant may present his or her written petition for a hearing to the department. Upon receipt by the department of the petition, the petition shall be set for hearing. The hearing shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

- (2) Health and Safety Code Section 1596.887 provides in part:

Proceedings for the suspension, revocation, or denial of a license under this chapter shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

In all proceedings conducted in accordance with this action, the standard of proof to be applied shall be the preponderance of the evidence.

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- (d) Notwithstanding any appeal action, the facility is unlicensed and shall not operate pending adoption by the director of a decision on the denial action.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.81, 1596.856, 1596.891, 1596.95 and 1597.05, Health and Safety Code; and Sections 15374 and 15376, Government Code.

101192	DENIAL OF A RENEWAL LICENSE	101192
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- (a) The licensing agency shall have the authority to deny an application for a renewal license under the following circumstances:
- (1) The licensee is not in substantial compliance, as defined in Section 101152s.(2), with applicable law and regulation at the time of the renewal.
 - (2) Failure to substantially comply with licensing requirements has resulted in the Department's action to suspend or revoke the license or to seek other remedies as provided by law.
 - (3) The licensee has failed to pay any civil penalty assessments pursuant to Section 101205 and in accordance with a final judgment issued by a court of competent jurisdiction, unless payment arrangements acceptable to the licensing agency have been made.
- (b) If the application for a renewal license is denied, the licensing agency shall mail the licensee a written notice of denial.
- (1) The notification shall inform the licensee of and set forth the reasons for the denial, and shall advise the licensee of the right to appeal.
- (c) The licensee shall have the right to appeal the denial of the application for renewal pursuant to Health and Safety Code Section 1596.879.

HANDBOOK BEGINS HERE

- (1) Health and Safety Code Section 1596.879 provides in part:

Immediately upon the denial of any application for a license or for a special permit, the department shall notify the applicant in writing. Within 15 days after the department mails the notice, the applicant may present his or her written petition for a hearing to the department. Upon receipt by the department of the petition, the petition shall be set for hearing. The hearing shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

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- (d) When a renewal application is denied and the licensee appeals the denial, the licensing agency shall, upon written request from the licensee within the 15-day period, issue a license pending adoption by the director of a decision on the denial action.

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- (e) An application for renewal licensure shall not be denied solely on the basis that the licensee is a parent who has administered or will continue to administer corporal punishment not constituting child abuse as defined in Section 11165, subdivision (g) of the Penal Code, or Section 1531.5(c) of the Health and Safety Code, on his/her own child(ren).

HANDBOOK BEGINS HERE

- (1) Section 11165, subdivision (g) of the Penal Code states:

Child abuse means a physical injury which is inflicted by other than accidental means on a child by another person. Child abuse also means the sexual assault of a child or any act or omission proscribed by Section 273a (willful cruelty or unjustifiable punishment of a child) or 273d (corporal punishment or injury). Child abuse also means the neglect of a child or abuse in out-of-home care.

- (2) Section 273(a) of the Penal Code states:

Any person who, under circumstances or conditions likely to produce great bodily harm or death, willfully causes or permits any child to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of such child to be injured, or willfully causes or permits such child to be placed in such situation that its person or health is endangered, is punishable by imprisonment in the county jail not exceeding one year, or in the state prison for 2, 4 or 6 years.

Any person who, under circumstances or conditions other than those likely to produce great bodily harm or death, willfully causes or permits any child to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of such child to be injured, or willfully causes or permits such child to be placed in such situation that its person or health may be endangered, is guilty of a misdemeanor.

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- (3) Section 273(d) of the Penal Code states:

Any person who willfully inflicts upon any child any cruel or inhuman corporal punishment or injury resulting in a traumatic condition is guilty of a felony, and upon conviction thereof shall be punished by imprisonment in the state prison for 2, 4 or 6 years, or in the county jail for not more than one year.

- (4) Section 1531.5(c) of the Health and Safety Code states:

Child abuse means a situation in which a child suffers from any one or more of the following:

- (A) Serious physical injury inflicted upon the child by other than accidental means.
- (B) Harm by reason of intentional neglect or malnutrition or sexual abuse.
- (C) Going without necessary and basic physical care.
- (D) Willful mental injury, negligent treatment, or maltreatment of a child under the age of 18 by a person who is responsible for the child's welfare under circumstances which indicate that the child's health or welfare is harmed or threatened thereby, as determined in accordance with regulations prescribed by the Director of Social Services.
- (E) Any condition which results in the violation of the rights or physical, mental, or moral welfare of a child or jeopardizes the child's present or future health, opportunity for normal development, or capacity for independence.

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NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.81(b), 1596.856, 1596.95 and 1597.05, Health and Safety Code.

101193	REVOCATION OR SUSPENSION OF LICENSE	101193
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- (a) The Department shall have the authority to suspend or revoke any license on any of the grounds specified in Health and Safety Code Section 1596.885.

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- (1) Health and Safety Code Section 1596.885 provides:

The department may deny an application for or suspend or revoke any license, registration, or special permit issued under this act upon any of the following grounds and in the manner provided in this act:

- (A) Violation by the licensee, registrant, or holder of a special permit of this act or of the rules and regulations promulgated under this act.
- (B) Aiding, abetting, or permitting the violating of any provision of this act or of the rules and regulations promulgated under this act.
- (C) Conduct which is inimical to the health, morals, welfare, or safety of either an individual in or receiving services from the facility or the people of this state.
- (D) The conviction of a licensee, or other person specified in Section 1596.871, at any time during licensure, of a crime as defined in Section 1596.871.

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- (b) Proceedings to hear a revocation action or a revocation and temporary suspension action shall be conducted pursuant to the provisions of Health and Safety Code Sections 1596.886 and 1596.887.

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- (1) Health and Safety Code Section 1596.886 provides in part:

The Director may temporarily suspend any license or special permit prior to any hearing when, in the opinion of the Director, the action is necessary to protect any child of the child day care facility from physical or mental abuse, abandonment, or any other substantial threat to health or safety. The Director shall notify the licensee or holder of the special permit of the temporary suspension and the effective date thereof and at the same time shall serve the provider with an accusation. Upon receipt of a notice of defense to the accusation by the licensee or the holder of the special permit, the Director shall, within 15 days, set the matter for hearing, and the hearing shall be held as soon as possible but not later than 30 days after receipt of the notice. The temporary suspension shall remain in effect until such time as the hearing is completed and the Director has made a final determination on the merits. However, the temporary suspension shall be deemed vacated if the Director fails to make a final determination on the merits within 30 days after the original hearing has been completed.

- (2) Health and Safety Code Section 1596.887 provides in part:

Proceedings for the suspension, revocation, or denial of a license under this chapter shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

In all proceedings conducted in accordance with this section, the standard of proof to be applied shall be the preponderance of the evidence.

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101193	REVOCATION OR SUSPENSION OF LICENSE (Continued)	101193
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- (3) Chapter 5 (commencing with Section 11500) of Part 1, Division 3, Title 2 of the Government Code provides in part:
- (A) When the Director intends to seek revocation of a license, he/she shall notify the licensee of the proposed action; shall concurrently serve the licensee with an accusation; and advise the licensee of the right to a hearing.
- (c) For a revocation and temporary suspension action, the Director shall request the Office of Administrative Hearings to hold the hearing as soon as possible but not later than 30 calendar days after receipt of the notice of defense.

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NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.81(b), 1596.885 and 1596.886, Health and Safety Code.

101194	LICENSEE/APPLICANT COMPLAINTS	101194
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- (a) Each licensee/applicant shall have the right, without prejudice, to bring to the attention of the department, any alleged misapplication or capricious enforcement of regulations by any licensing representative, or any differences in opinion between the licensee and any licensing representative concerning the proper application of these regulations.

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NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73 and 1596.81, Health and Safety Code.

101195	INSPECTION AUTHORITY OF THE DEPARTMENT OR LICENSING AGENCY	101195
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- (a) The Department or licensing agency shall have the inspection authority specified in Health and Safety Code Sections 1596.852 and 1596.853.

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- (1) Health and Safety Code Section 1596.852 provides in part:

Any duly authorized officer, employee, or agent of the department may, upon presentation of proper identification, enter and inspect any place providing personal care, supervision, and services at any time, with or without advance notice, to secure compliance with, or to prevent a violation of this act, or the regulations adopted by the department pursuant to this act.

- (2) Health and Safety Code Section 1596.853 provides in part:

- (A) Any person may request an inspection of any child day care facility in accordance with the California Child Day Care Facilities Act by transmitting to the department notice of an alleged violation of applicable requirements prescribed by the statutes or regulations of this state. A complaint may be made either orally or in writing.
- (B) The substance of the complaint shall be provided to the licensee no earlier than at the time of the inspection. Unless the complainant specifically requests otherwise, neither the substance of the complaint provided the licensee nor any copy of the complaint or any record published, released, or otherwise made available to the licensee shall disclose the name of any person mentioned in the complaint, except the name of any duly authorized officer, employee, or agent of the department conducting the investigation or inspection pursuant to this chapter.
- (C) Upon receipt of a complaint, the department shall make a preliminary review and, unless the department determines that the complaint is willfully intended to harass a licensee or is without any reasonable basis, the department shall make an onsite inspection within 10 days after receiving the complaint, where the visit would adversely affect the licensing investigation or the investigation of other agencies, including, but not limited to, law enforcement agencies. In either event, the complainant shall be promptly informed of the department's proposed course of action.

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101195	INSPECTION AUTHORITY OF THE DEPARTMENT OR LICENSING AGENCY (Continued)	101195
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- (D) Upon issuance of a license for a child day care facility or upon denial, revocation, or temporary suspension of a license or within 24 hours of a finding that physical abuse or sexual abuse has occurred, the department shall notify the resource and referral agency funded under Section 8210 of the Education Code for that jurisdiction.

The resource and referral agency shall be notified of the final resolution.

- (2) With the exception of parents seeking local day care service, any other entity specified in subdivision (b) of Section 1596.86 may request that the department provide the notification described in paragraph (1).

- (E) When the department substantiates an allegation which it deems to be serious, in a facility funded by the Child Development Division of the State Department of Education pursuant to Chapter 2 (commencing with Section 8200) of Part 6 of the Education Code it shall notify the Child Development Division.

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- (b) The Department or licensing agency shall have the authority to interview children, or staff, and to inspect and audit child or facility records without prior consent.
- (1) The licensee shall make provisions for private interviews with any child(ren), or any staff member; and for the examination of all records relating to the operation of the facility.
- (c) The Department or licensing agency shall have the authority to observe the physical condition of the child(ren), including conditions which could indicate abuse, neglect, or inappropriate placement, and to have a licensed medical professional physically examine the child(ren).

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.81, 1596.852 and 1596.853, Health and Safety Code.

101196	EVALUATION VISITS	101196
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- (a) Child day care facilities shall be evaluated as specified in Health and Safety Code Sections 1596.98, 1596.99, 1597.08, and 1597.09.

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- (1) Health and Safety Code Section 1596.98 provides:

The department shall notify the day care center in writing of all deficiencies in its compliance with this chapter and the rules and regulations adopted pursuant to this chapter, and shall set a reasonable length of time for compliance by the center. Upon a finding of noncompliance, the department may levy a civil penalty which shall be paid to the department each day until the department finds the center in compliance.

- (2) Health and Safety Code Section 1596.99 provides in part:

In addition to suspension or revocation of a license issued under this chapter, the Department may levy a civil penalty. The civil penalty may be in addition to the penalties of suspension or revocation.

The amount of the civil penalty may not be less than twenty-five dollars (\$25) nor more than fifty dollars (\$50) per day for each violation of this chapter except where (1) the nature of the violation, (2) the seriousness of the violation, (3) the frequency of the violation, or (4) any combination of these factors warrants a higher penalty or an immediate civil penalty assessment as specified in subdivision (c), or both. In no event shall a civil penalty assessment exceed one hundred fifty dollars (\$150) per day.

- (3) Health and Safety Code Section 1597.08 provides:

All site visits shall be unannounced.

- (4) Health and Safety Code Section 1597.09 provides:

- (A) A site visitation to all licensed day care centers shall be made annually and as often as necessary to ensure compliance.

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101196	EVALUATION VISITS (Continued)	101196
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- (B) A site visitation shall be required for the renewal of a license.

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- (b) The licensing agency shall have the authority to make any number of other visits to a facility in order to determine compliance with applicable law and regulations.

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- (c) Provisions for frequency of evaluation visits to day care centers are contained in Section 101296.

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NOTE: Authority cited: Section 1596.81 and 1596.99, Health and Safety Code. Reference: Sections 1596.81(b), 1596.852, 1596.98, 1596.99, 1597.08 and 1597.09, Health and Safety Code.

Article 5. ENFORCEMENT PROVISIONS

101202	SERIOUS DEFICIENCIES	101202
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- (a) The following are examples of regulations which if not complied with nearly always result in a serious deficiency.
- (1) Section 101161 relating to limitations on the capacity or ambulatory status of the children in care.
 - (2) Section 101170 relating to criminal record clearance.
 - (3) Section 101171 relating to fire clearance.
 - (4) Section 101172 relating to water supply.
 - (5) Section 101223 relating to personal rights.
 - (6) Section 101224 relating to telephone service.
 - (7) Section 101326(e) relating to storing and dispensing medications.
 - (8) Section 101227 relating to food storage, preparation and service.
 - (9) Section 101238 relating to safety of children's accommodations.
 - (10) Section 101239(e)(1), (2), and (3) relating to hot water temperature and toilet facilities.
 - (11) Section 101239(f) relating to storage and disposal of solid wastes.
 - (12) Any other regulation, the violation of which is deemed by the licensing agency to constitute a serious deficiency as defined in Section 101152s.(1).

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NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.81, 1596.852, 1596.853 and 1596.98, Health and Safety Code.

101203	DEFICIENCIES IN COMPLIANCE	101203
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- (a) When a licensing evaluation is conducted and the evaluator determines that a deficiency exists the evaluator shall issue a notice of deficiency, unless the deficiency is not serious and is corrected during the visit.
- (b) Prior to completion of an evaluation or other licensing visit, the licensee, administrator, operator, or other person in charge of the facility shall meet with the evaluator to discuss any deficiencies noted, to jointly develop a plan for correcting each deficiency, and to acknowledge receipt of the notice of deficiency.
- (c) The evaluator shall provide notice of deficiency to the licensee by one of the following:
 - (1) Personal delivery to the licensee, at the completion of the visit.
 - (2) If the licensee is not at the facility site, leaving the notice with the person in charge of the facility at the completion of the visit.
 - (A) Under such circumstances, a copy of the notice shall also be mailed to the licensee.
 - (3) If the licensee or the person in charge of the facility refuses to accept the notice, a notation of the refusal shall be written on the notice and a copy left at the facility.
 - (A) Under such circumstances, a copy of the notice shall also be mailed to the licensee.
- (d) The notice of deficiency shall be in writing and shall include the following:
 - (1) Citation of the statute or regulation which has been violated.
 - (2) A description of the nature of the deficiency stating the manner in which the licensee failed to comply with a specified statute or regulation, and the particular place or area of the facility in which it occurred.
 - (3) The plan developed, as specified in (b) above, for correcting each deficiency.

101203	DEFICIENCIES IN COMPLIANCE (Continued)	101203
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- (4) A date by which each deficiency shall be corrected.
- (A) In determining the date for correcting a deficiency, the evaluator shall consider the following factors:
1. The potential hazard presented by the deficiency.
 2. The number of children affected.
 3. The availability of equipment or personnel necessary to correct the deficiency.
 4. The estimated time necessary for delivery, and for any installation, of necessary equipment.
- (B) The date for correcting a deficiency shall not be more than 30 calendar days following service of the notice of deficiency, unless the evaluator determines that the deficiency cannot be completely corrected in 30 calendar days.
- (C) If the date for correcting the deficiency is more than 30 calendar days following service of the notice of deficiency, the notice shall specify the corrective actions which must be taken within 30 calendar days to begin correction.
- (D) The evaluator shall require correction of the deficiency within 24 hours and shall specify on the notice of deficiency the date by which the correction must be made whenever penalties are assessed pursuant to Sections 101205(c), (d) and (e).
- (5) The amount of penalty being assessed and the date the penalty begins.
- (6) The address and telephone number of the licensing office responsible for reviewing notices of deficiencies for the area in which the facility is located.

NOTE: Authority cited: Section 1596.81 and 1596.99, Health and Safety Code. Reference: Sections 1596.81(b), 1596.98, and 1596.99, Health and Safety Code.

101204	FOLLOW-UP VISITS TO DETERMINE COMPLIANCE	101204
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- (a) A follow-up visit shall be conducted to determine compliance with the plan of correction specified in the notice of deficiency.
 - (1) At a minimum, a follow-up visit shall be conducted within ten working days following the dates of corrections specified in the notice of deficiency, unless the licensee has demonstrated that the deficiency was corrected as required.
 - (2) No penalty shall be assessed unless a follow-up visit is conducted as specified in (a) and (a)(1) above.
- (b) If a follow-up visit indicates that a deficiency was not corrected on or before the date specified in the notice of deficiency, the evaluator shall issue a notice of penalty.
- (c) A notice of penalty shall be in writing and shall include:
 - (1) The amount of penalty assessed, and the date the payment is due.
 - (2) The name and address of the agency responsible for collection of the penalty.
- (d) When an immediate penalty has been assessed pursuant to Sections 101205(c), (d), (e) and (f) and correction is made when the evaluator is present, a follow-up visit is not required.

NOTE: Authority cited: Section 1596.81 and 1596.99, Health and Safety Code. Reference: Sections 1596.852, 1596.853, 1596.98 and 1596.99, Health and Safety Code.

101205	PENALTIES	101205
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- (a) A penalty of \$25 per day shall be assessed for deficiencies, other than serious deficiencies, that are not corrected by the date specified in the notice of deficiency.
- (b) A penalty of \$50 per day shall be assessed for serious deficiencies that are not corrected by the date specified in the notice of deficiency.
- (c) Notwithstanding (a) and (b) above, an immediate penalty of \$150 per day shall be assessed for the following:
 - (1) Sickness, injury or death of a child(ren) has occurred as a result of the deficiency.

101205	PENALTIES (Continued)	101205
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- (d) When a facility is cited for a serious deficiency as defined in Section 101152s.(1) and repeats the same violation within a 12-month period, an immediate penalty assessment of \$150 and \$50 per day thereafter shall be assessed until the deficiency is corrected.
- (e) A serious deficiency subject to the immediate penalty assessment specified in Section 101205(d) above which is repeated within a 12-month period, shall be cited and assessed immediate penalty assessment of \$150 and \$150 per day thereafter until the deficiency is corrected.
- (f) If any deficiency is not corrected by the date specified in the notice of deficiency, a penalty shall be assessed for each day following that date until compliance has been demonstrated.
- (1) Immediate penalty assessment as specified in (c), (d) and (e) above, shall begin on the day the deficiency is cited.
- (g) If a licensee or his/her representative reports to the licensing agency that a deficiency has been corrected, the penalty shall cease as of the day the licensing agency receives notification that the correction was made.
- (1) If the deficiency has not been corrected, civil penalties shall continue to accrue from the date of the original citation.
- (2) If it can be verified that the correction was made prior to the date of notification, the penalty shall cease as of that earlier date.
- (h) If necessary, a site visit shall be made immediately or within five working days to confirm that the deficiency has been corrected.
- (i) If an immediate civil penalty is assessed, and the deficiency is corrected on the same day, the penalty shall still be assessed for that day.
- (j) All penalties shall be due and payable upon receipt of notice for payment from the licensing agency, and shall be paid only by check or money order made payable to the agency indicated in the notice.
- (k) The licensing agency shall have the authority to file a claim in a court of competent jurisdiction or to take other appropriate action for failure to pay penalties as specified in (j) above.

NOTE: Authority cited: Section 1596.81 and 1596.99, Health and Safety Code. Reference: Sections 1596.81(b), 1596.98 and 1596.99, Health and Safety Code.

101206	ADMINISTRATIVE REVIEW	101206
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- (a) A licensee or his/her representative shall have the right to request a review of a notice of deficiency and/or notice of penalty within 10 working days of receipt of such notice(s).
 - (1) If the deficiency has not been corrected, civil penalties shall continue to accrue during the review process.
- (b) The review shall be conducted by a higher level staff person than the evaluator who issued the notice(s).
- (c) If the reviewer determines that a notice of deficiency or notice of penalty was not issued or assessed in accordance with applicable statutes and regulations of the Department, or that other circumstances existed, he/she shall have the authority to amend or dismiss the notice.
- (d) The reviewer shall have the authority to extend the date specified for correction of a deficiency if warranted by the facts or circumstances presented to support a request for extension.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73 and 1596.81, Health and Safety Code.

101207	EXEMPTION FROM CIVIL PENALTIES	101207
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- (a) Civil penalties shall not be assessed against any governmental entity, including a state, or city, holding a child day care facility license.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73 and 1596.81, Health and Safety Code.

101209	UNLICENSED FACILITY PENALTIES	101209
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- (a) A penalty of \$200 per day shall be assessed for the operation of an unlicensed facility under either of the following conditions:
- (1) The operator has not submitted a completed application for licensure within 15 calendar days of issuance of a Notice of Operation in Violation of Law pursuant to Section 101157, and continues to operate.
 - (A) For purposes of this section, an application shall be deemed completed if it includes the information required in Section 101169.
 - (B) The completed application shall be deemed to be submitted when received by the licensing agency.
 - (2) Unlicensed operation continues after denial of the initial application.
 - (A) Notwithstanding any appeal action, facility operation must cease within 10 calendar days of the mailing of the notice of denial or upon receipt of the denial notice by the operator, whichever occurs first.
- (b) The \$200 per day penalty shall be assessed for the continued operation of an unlicensed facility as follows:
- (1) On the 16th calendar day after the operator has been issued the Notice of Operation in Violation of Law, and has not submitted a completed application as required.
 - (A) The \$200 per day penalty shall continue until the operator ceases operation or submits a completed application pursuant to Section 101209(a)(1)(A) and (B).
 - (2) Within 10 calendar days of the mailing of the notice of denial or upon receipt of the denial notice by the operator, whichever occurs first.
 - (A) The \$200 per day penalty shall continue until the operator ceases operation.

101209	UNLICENSED FACILITY PENALTIES (Continued)	101209
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- (c) If the unlicensed operator or his/her representative reports to the licensing agency that unlicensed operation has ceased, the penalty shall cease as of the day the licensing agency receives the notification.
- (1) A site visit shall be made immediately or within five working days to verify that the unlicensed facility operation has ceased.
- (2) Notwithstanding (c) above, if the unlicensed facility operation has not ceased, penalties shall continue to accrue without interruption from the date of initial penalty assessment.
- (d) All penalties shall be due and payable upon receipt of the Notice for Payment from the licensing agency, and shall be paid by check or money order made payable to the agency indicated in the notice.
- (e) The licensing agency shall have the authority to file a claim in a court of competent jurisdiction or to take other appropriate action for failure to pay penalties as specified in (d) above.

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- (f) Payment of civil penalties or application for licensure in response to a citation under this section do not permit the operation of a child day care facility without a license.

Health and Safety Code 1596.80 states:

No person, firm, partnership, association, or corporation shall operate, establish, manage, conduct, or maintain a child day care facility in this state without a current valid license therefor as provided in this act.

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NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.80, 1596.891 and 1596.892, Health and Safety Code.

101210	UNLICENSED FACILITY ADMINISTRATIVE APPEAL	101210
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- (a) An unlicensed facility operator or his/her representative shall have the right to appeal the penalty assessment within 10 working days after service of the penalty assessment.
 - (1) If the unlicensed facility operation has not ceased, the \$200 per day penalty shall continue to accrue during the appeal process.
- (b) The appeal review shall be conducted by a higher level staff person than the evaluator who issued the penalty.
- (c) If the reviewer of the appeal determines that the penalty assessment was not issued in accordance with applicable statutes and regulations of the Department, he/she shall have the authority to amend or dismiss the penalty assessment.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.80, 1596.891, and 1596.893, Health and Safety Code.

Article 6. CONTINUING REQUIREMENTS

101212 REPORTING REQUIREMENTS

101212

- (a) Each licensee or applicant shall furnish to the licensing agency reports as required by the Department, including, but not limited to, those specified in this section.
- (b) Upon the occurrence, during the operation of the facility, of any of the events specified in (1) below, a report shall be made to the licensing agency within the agency's next working day during its normal business hours. In addition, a written report containing the information specified in (2) below shall be submitted to the licensing agency within seven days following the occurrence of such event.
 - (1) Events reported shall include the following:
 - (A) Death of any child from any cause.
 - (B) Any injury to any child which requires medical treatment.
 - (C) Any unusual incident or child absence which threatens the physical or emotional health or safety of any child.
 - (D) Any suspected physical or psychological abuse of any child.
 - (E) Epidemic outbreaks.
 - (F) Poisonings.
 - (G) Catastrophes.
 - (H) Fires or explosions which occur in or on the premises.
 - (2) Information provided shall include the following:
 - (A) Child's name, age, sex, and date of admission.
 - (B) Date and nature of event.
 - (C) Attending physician's name, findings, and treatment, if any.
 - (D) Disposition of the case.

101212	REPORTING REQUIREMENTS (Continued)	101212
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- (c) The items below shall be reported to the licensing agency within 10 working days following the occurrence.
- (1) The organizational changes specified in Section 101185(a)(2).
 - (2) Any change in the licensee's or applicant's mailing address.
 - (3) Any change of the chief executive officer of a corporation or association.
 - (A) Such notification shall include the new chief executive officer's name and address.
 - (B) Fingerprint cards shall be submitted as specified in Section 101170(c)(1).
 - (4) Any changes in the plan of operation which affect the services to children.
- (d) The items specified in (b)(1)(A) through (H) above shall also be reported to the child's authorized representative, if any.
- (e) The items specified in (b)(1)(E) through (G) above shall also be reported to the local health officer when appropriate pursuant to Title 17, California Code of Regulations, Sections 2500, 2502 and 2503.

101212	REPORTING REQUIREMENTS (Continued)	101212
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- (1) Title 17, California Code of Regulations, Section 2500 requires:

It shall be the duty of every physician, practitioner, dentist, coroner, every superintendent or manager of a dispensary, hospital, clinic, or any other person knowing of or in attendance on a case or suspected case of any of the following diseases or conditions, to notify the local health authority immediately. A standard type report form has been adopted and is available for this purpose.

<p>Amebiasis</p> <p>Anthrax</p> <p>Botulism</p> <p>Brucellosis (Undulant Fever)</p> <p>Chancroid</p> <p>Cholera</p> <p>Coccidioidomycosis</p> <p>Conjunctivitis, Acute Infectious of the Newborn (Gonorrheal Ophthalmia, Ophthalmia Neonatorium)</p> <p>Dengue</p> <p>Diarrhea of the Newborn</p> <p>Diphtheria</p> <p>Dysentery, Bacillary (See Shigella infections)</p> <p>Encephalitis, Acute</p> <p>Epilepsy</p> <p>*Food Poisoning (other than Botulism)</p> <p>German Measles (Rubella)</p> <p>Gonococcus Infection</p> <p>Granuloma Inguinale</p> <p>Hepatitis, Infectious</p> <p>Hepatitis, Serum</p> <p>Leprosy (Hansen's Disease)</p> <p>Leptospirosis (including Weil's Disease)</p> <p>Lymphogranuloma Venereum (Lymphogranuloma Inguinale)</p> <p>Malaria</p> <p>*Measles (Rubeola)</p> <p>Meningitis, Meningococcal or Meningococci</p>	<p>*Mumps</p> <p>Paratyphoid Fever, A, B and C (See Salmonella infections)</p> <p>Pertussis (Whooping Cough)</p> <p>Plague</p> <p>Poliomyelitis, Acute Anterior</p> <p>Psittacosis</p> <p>Q Fever</p> <p>Rabies, Human or Animal</p> <p>Relapsing Fever</p> <p>Rheumatic Fever, Acute</p> <p>Rocky Mountain Spotted Fever</p> <p>Salmonella Infections (exclusive of Typhoid Fever)</p> <p>*Scarlet Fever</p> <p>Shigella Infections</p> <p>Smallpox (Variola)</p> <p>*Streptococcal Infections, Hemolytic (including Scarlet Fever, and Streptococcal Sore Throat)</p> <p>Syphilis</p> <p>Tetanus</p> <p>Trachoma</p> <p>Trichinosis</p> <p>Tuberculosis</p> <p>Tularemia</p> <p>Typhoid Fever, Cases and Carriers</p> <p>Typhus Fever</p> <p>Viral Exanthem in Pregnant Women</p> <p>Yellow Fever</p>
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For outbreak reporting and reporting of occurrence of unusual and rare diseases see Sections 2502 and 2503.

HANDBOOK CONTINUES

HANDBOOK CONTINUES

Title 17, California Code of Regulations, Section 2502 requires:

Any person having knowledge of any outbreak or undue prevalence of infectious or parasitic disease or infestation whether or not listed in Section 2500, shall promptly report the facts to the local health officer, who shall investigate the circumstances and if he finds that an epidemic or undue prevalence does in fact exist, he shall report the outbreak to the Director of the State Department of Public Health. The following are examples of diseases, outbreaks of which are to be so reported:

Epidemic gastroenteritis (other than food poisoning)	Infectious mononucleosis
Epidemic keratoconjunctivitis	Influenza, epidemic
Fevers of unknown etiology	Lymphocytic choriomeningitis
German measles	Pneumonia, infectious
Impetigo	Ringworm

Title 17, California Code of Regulations, Section 2503 requires:

Any person having knowledge of a case of an unusual disease not listed in Section 2500 shall promptly convey the facts to the local health officer. Examples are: glanders, herpangina, histoplasmosis, toxoplasmosis, echinococcosis, listeriosis, cat scratch fever, and rickettsialpox.

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- (f) The item specified in (b)(1)(H) shall also be reported immediately to the local fire authority. In areas not having organized fire services a report shall be made to the State Fire Marshal within 24 hours.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73 and 1596.81, Health and Safety Code.

101213	FINANCES	101213
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- (a) The licensee shall meet the following financial requirements:
- (1) Development and maintenance of a financial plan which ensures resources necessary to meet operating costs for care and supervision of children.
 - (2) Maintenance of financial records.
 - (3) Submission of financial reports as required upon the written request of the department or licensing agency.
 - (A) Such request shall explain the necessity for disclosure.
 - (B) The licensing agency shall have the authority to reject any financial report, and to request and examine additional information including interim financial statements. The reason(s) for rejection of the report shall be in writing.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73 and 1596.81, Health and Safety Code.

101214	ACCOUNTABILITY	101214
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- (a) The licensee, whether an individual or other entity, is accountable for the general supervision of the licensed facility, and for the establishment of policies concerning its operation.
- (1) If the licensee is a corporation or an association, the governing body shall be active and functioning in order to ensure such accountability.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73 and 1596.81, Health and Safety Code.

101215	ADMINISTRATOR-QUALIFICATIONS AND DUTIES	101215
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- (a) The administrator shall have the following qualifications:
- (1) Attainment of at least 18 years of age.
 - (2) Knowledge of the requirements for providing the type of care and supervision needed by children, including ability to communicate with such children.
 - (3) Knowledge of and ability to comply with applicable law and regulation.
 - (4) Ability to maintain or supervise the maintenance of financial and other records.
 - (5) Ability to direct the work of others, when applicable.
 - (6) Ability to establish the facility's policy, program and budget.
 - (7) Ability to recruit, employ, train, and evaluate qualified staff, and to terminate employment of staff, if applicable to the facility.
- (b) Each licensee shall make provision for continuing operation and carrying out of the administrator's responsibilities during any absence of the administrator.
- (c) The licensee, if an individual, or any member of the governing board of the licensed corporation or association, shall be permitted to be the administrator provided that he/she meets the qualifications specified in this section, and in applicable regulations in Chapter 2.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73 and 1596.81, Health and Safety Code.

101216	PERSONNEL REQUIREMENTS	101216
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- (a) Facility personnel shall be competent to provide the services necessary to meet individual child needs and shall, at all times, be employed in numbers necessary to meet such needs.
- (b) The licensing agency shall have the authority to require any licensee to provide additional staff whenever the licensing agency determines and documents that additional staff are required for the provision of services necessary to meet the children's needs. The licensee shall be informed in writing of the reasons for the licensing agency's determination. The following factors shall be taken into consideration in determining the need for additional staff.
 - (1) Needs of the particular children.
 - (2) Extent of the services provided by the facility.
 - (3) Physical arrangements of the particular facility.
 - (4) Existence of a state of emergency or disaster.
- (c) The licensee shall be permitted to utilize volunteers provided that such volunteers are supervised, and are not included in the facility staffing plan.
- (d) The following facility personnel shall be at least 18 years of age:
 - (1) Persons who supervise employees and/or volunteers.
 - (2) Persons, including volunteers, who provide any element of care and supervision to children.
- (e) The licensee shall provide for direct supervision of children during participation in or presence at potentially dangerous activities or areas in the facility.
 - (1) An adult shall be present at all times while children are using a pool or other body of water from which rescue requires the rescuer's ability to swim.
 - (2) Adults who supervise while children are using a pool or other body of water from which rescue requires the rescuer's ability to swim, shall have a valid water safety certificate.

101216	PERSONNEL REQUIREMENTS (Continued)	101216
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- (f) All personnel shall be given on-the-job training or shall have related experience which provides knowledge of and skill in the following areas, as appropriate to the job assigned and as evidenced by safe and effective job performance.
- (1) Principles of nutrition, food preparation and storage and menu planning.
 - (2) Housekeeping and sanitation principles.
 - (3) Provision of child care and supervision, including communication.
 - (4) Assistance with prescribed medications which are self-administered.
 - (5) Recognition of early signs of illness and the need for professional assistance.
 - (6) Availability of community services and resources.
- (g) All personnel, including the licensee, administrator and volunteers, shall be in good health, and shall be physically, mentally, and occupationally capable of performing assigned tasks.
- (1) Except as specified in (3) below, good physical health shall be verified by a health screening, including a test for tuberculosis, performed by or under the supervision of a physician not more than one year prior to or seven days after employment or licensure.
 - (2) A health screening report signed by the person performing such screening shall be made on each person specified above, and shall indicate the following:
 - (A) The person's physical qualifications to perform the duties to be assigned.
 - (B) The presence of any health condition that would create a hazard to the person, children or other staff members.

101216	PERSONNEL REQUIREMENTS (Continued)	101216
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- (3) The good physical health of each volunteer who works in the facility shall be verified by:
 - (A) A statement signed by each volunteer affirming that he/she is in good health.
 - (B) A test for tuberculosis performed not more than one year prior to or seven days after initial presence in the facility.
- (h) Personnel with evidence of physical illness that poses a threat to the health and safety of children shall be relieved of their duties.
- (i) Pending receipt of a criminal record transcript as specified in Section 101170, and prior to employment or at initial presence in the facility all employees and volunteers determined by the licensing agency to require criminal record clearance shall sign a statement under penalty of perjury, on a form provided by the Department, which contains either of the following:
 - (1) A declaration that he/she has not been convicted of a crime, other than a minor traffic violation as specified in Section 101170(f).
 - (2) Information regarding any prior convictions of a crime, with the exception of any minor traffic violations as specified in Section 101170(f).
 - (A) If a person has been convicted of a crime other than a minor traffic violation as specified in Section 101170(f), he/she shall also acknowledge that his/her continued employment is conditioned on approval of the licensing agency.
- (j) When regular staff members are absent, there shall be coverage by personnel capable of performing assigned tasks as evidence by on-the-job performance.
- (k) Personnel shall provide for the care and safety of children without physical or verbal abuse, exploitation or prejudice.
- (l) All personnel shall be instructed to report observations or evidence of violations of any of the personal rights specified in Section 101223 and/or any of the personal rights provisions of Chapter 2.

101216	PERSONNEL REQUIREMENTS (Continued)	101216
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- (m) All personnel shall be informed of their rights pursuant to Sections 1596.881 and 1596.882 of the Health and Safety Code.

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Health and Safety Code Section 1596.881 provides in part:

Employees shall be notified in writing at the time of employment of their rights under this chapter, as evidenced by their signature on a notification form outlining actions protected by this section. Forms to be utilized for this purpose shall be kept on file at the facility. The Department shall provide each facility with the notification forms, which shall include information regarding enforcement pursuant to relevant Labor Code sections.

Health and Safety Code Section 1596.882 provides in part:

A claim by the employee alleging the violation by the employer of Section 1596.881 shall be presented to the employer within 45 days after the action as to which complaint is made and presented to the Division of Labor Standards Enforcement not later than 90 days after the action as to which complaint is made.

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1. The licensee shall provide each employee with a copy of the notice form (LIC 9052 (4/88)) furnished by the Department.
 - (A) Each employee shall be requested to sign and date the notice form acknowledging receipt.
 - (B) A copy of the signed notice form shall be retained in the employee's personnel record.
 - (C) If the employee refuses to sign the notice form, a dated notation to that effect shall be retained in the employee's personnel record.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.81, 1596.871, 1596.880, 1596.881, and 1596.882, Health and Safety Code; and Section 42001, Vehicle Code.

101217	PERSONNEL RECORDS	101217
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- (a) Employment application forms shall be completed and maintained on each employee; shall be available to the licensing agency for review, and shall contain the following information:
- (1) Employee's full name.
 - (2) Driver's license number if the employee is to transport children.
 - (3) Date of employment.
 - (4) A statement signed by the employee that he/she is at least 18 years of age.
 - (5) Home address and phone number.
 - (6) Documentation of the educational background, training and/or experience specified in Chapter 2.
 - (7) Past experience, including types of employment and former employers.
 - (8) Duties of the employee.
 - (9) Termination date if no longer employed by the facility.
 - (10) A signed and dated copy of LIC 9052 (4/88) - Notice of Employee Rights.
- (b) All personnel including the licensee, administrator, employees and volunteers, shall have on file either the record of the health screening specified in Section 101216(g)(2), or the volunteer statement and a test for tuberculosis specified in Section 101216(g)(3).
- (c) All personnel records shall be retained for at least three years following termination of employment.
- (d) All records shall be maintained at the facility site.
- (1) The licensee shall be permitted to retain such records in a central administrative location provided that they are readily available to the licensing agency at the facility site upon request.
- (e) In all cases, personnel records shall document the hours actually worked.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.81, 1596.880, 1596.881 and 1596.882, Health and Safety Code.

101219 ADMISSION AGREEMENTS 101219

- (a) The licensee shall complete and maintain current individual written admission agreements with all children or with their authorized representatives, if any.
- (b) Admission agreements shall specify the following:
 - (1) Basic services.
 - (2) Available optional services.
 - (3) Payment provisions, including the following:
 - (A) Basic rate.
 - (B) Optional services rates.
 - (C) Payor.
 - (D) Due date.
 - (E) Frequency of payment.
 - (4) Modification conditions, including requirement for provision of at least 30 calendar days prior to written notice to the parent or authorized representative of any basic rate change.
 - (A) It shall be acceptable for agreements involving children whose care is funded at government-prescribed rates to specify that the effective date of a government rate change shall be considered the effective date for basic service rate modifications and that no prior notice is necessary.

101219	ADMISSION AGREEMENTS (Continued)	101219
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- (5) Refund conditions.
- (6) Right of the licensing agency to perform the duties authorized in Section 101195(b) and (c).
- (7) Conditions under which the agreement may be terminated.
- (c) Such agreements shall be dated and signed by the parent or authorized representative and the licensee, or his/her designated representatives, no later than seven calendar days following admission.
- (d) Modifications to the original agreement shall be made whenever circumstances covered in the agreement change, and shall be dated and signed by the persons specified in (c) above.
- (e) The licensee shall retain the original copy of the agreement and shall provide copies to the parent and/or to the authorized representative, if any.
- (f) The licensee shall comply with all terms and conditions set forth in the admission agreement.
- (g) The admission agreement shall be automatically terminated by the death of the child. No liability or debt shall accrue after the date of death.

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- (1) This does not preclude payments ordered by a court of competent jurisdiction.

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NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73 and 1596.81, Health and Safety Code.

101220	CHILD'S MEDICAL ASSESSMENTS	101220
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- (a) Prior to, or within 30 calendar days following the acceptance of a child, the licensee shall obtain a written medical assessment of the child which enables the assessment of the licensee's ability to provide necessary health related services to the child(ren).
 - (1) Such assessment shall be performed by, or under the supervision of, a licensed physician, and shall not be more than one year old when obtained.
- (b) The medical assessment shall provide the following:
 - (1) A record of any infectious or contagious diseases which would preclude care of the child by the licensee.
 - (2) A test for tuberculosis.
 - (3) Identification of the child's special problems and needs.
 - (4) Identification of any prescribed medications being taken by the child.
 - (5) Ambulatory status.
- (c) The licensing agency shall have the authority to require the licensee to obtain a current written medical assessment, if such an assessment is necessary to verify the appropriateness of a child's placement.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.81 and 1597.05, Health and Safety Code.

101221	CHILD'S RECORDS	101221
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- (a) A separate, complete, and current record shall be maintained in the facility for each child.
- (b) Each record shall contain information including but not limited to the following:
 - (1) Name of child.
 - (2) Birthdate.
 - (3) Sex.
 - (4) Date of Admission.
 - (5) Names, addresses, and telephone numbers of the authorized representative.
 - (6) A signed copy of the admission agreement specified in Section 101219.
 - (7) Name, address and telephone number of physician and dentist, and other medical and mental health providers, if any.
 - (8) Medical assessment, including ambulatory status, as specified in Section 101220.
 - (9) Record of any illness or injury requiring treatment by a physician or dentist and for which the facility provided assistance to the child in meeting his/her necessary medical and dental needs.
 - (10) Record of current medications, including the name of the prescribing physician, and instructions, if any, regarding control and custody of medications.
 - (11) Date of termination of services.

101221	CHILD'S RECORDS (Continued)	101221
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- (c) All information and records obtained from or regarding children shall be confidential.
- (1) The licensee shall be responsible for safeguarding the confidentiality of record contents.
- (2) Except as specified in (d) below, or as otherwise authorized by law, the licensee and all employees shall not reveal or make available confidential information.
- (d) All children's records shall be subject to reproduction by the licensing agency upon demand during normal business hours.
- (1) A child's records shall also be open to inspection by the child's authorized representative, if any.
- (e) The information specified in (b)(1)-(b)(11) above shall be updated as necessary to ensure the accuracy of the child's record.
- (f) Original or photographic reproduction of all children's records shall be retained for at least three years following termination of service to the child.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.81 and 1597.05, Health and Safety Code.

101223	PERSONAL RIGHTS	101223
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- (a) Each child shall have personal rights which include, but are not limited to, the following:
- (1) To be accorded dignity in his/her personal relationships with staff and other persons.
- (2) To be accorded safe, healthful and comfortable accommodations, furnishings and equipment to meet his/her needs.

101223	PERSONAL RIGHTS (Continued)	101223
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- (3) To be free from corporal or unusual punishment, infliction of pain, humiliation, intimidation, ridicule, coercion, threat, mental abuse, or other actions of a punitive nature, including but not limited to: interference with the daily living functions, including eating, sleeping, or toileting; or withholding of shelter, clothing, medication or aids to physical functioning.
- (4) To be informed, and to have his/her authorized representative, if any, informed, by the licensee of the provisions of law regarding complaints including, but not limited to, the address and telephone number of the complaint receiving unit of the licensing agency, and of information regarding confidentiality.

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- (A) Provisions regarding inspection requests are found in Health and Safety Code Section 1596.853:
 - 1. Any person may request an inspection of any child day care facility in accordance with the California Child Day Care Facilities Act by transmitting to the department notice of an alleged violation of applicable requirements prescribed by statutes or regulations of this state....
 - 2. The substance of the complaint shall be provided to the licensee no earlier than at the time of the inspection....
 - 3. Upon receipt of a complaint, the department shall make a preliminary review and, unless the department determines that the complaint is willfully intended to harass a licensee or is without any reasonable basis, the department shall make an onsite inspection within 10 days after receiving the complaint. In either event, the complainant shall be promptly informed of the department's proposed course of action.

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101223	PERSONAL RIGHTS (Continued)	101223
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- (5) To be free to attend religious services or activities of his/her choice and to have visits from the spiritual advisor of his/her choice.
 - (A) Attendance at religious services, in or outside of the facility, shall be on a completely voluntary basis.
- (6) Not to be locked in any room, building, or facility premises by day or night.
 - (A) The licensee shall not be prohibited by this provision from locking exterior doors and windows or from establishing rules for the protection of children provided the children are able to exit the facility.
 - (B) The licensee shall be permitted to utilize means other than those specified in (A) above for securing exterior doors and windows only with the prior approval of the licensing agency.
- (7) Not to be placed in any restraining device, except a supportive restraint approved in advance by the licensing agency as specified in (A) through (E) below.
 - (A) Supportive restraints shall be limited to appliances or devices including straps, spring release trays, or soft ties, used to support a child in a bed, chair, or wheelchair to prevent falling.
 - (B) The request for prior approval to use supportive restraints shall include a written order of a physician indicating the need for such restraints. The licensing agency shall be authorized to require other additional documentation in order to evaluate the request.
 - (C) Approved supportive restraints shall be fastened or tied in a manner which permits quick release.
 - (D) The licensing agency shall approve the use of supportive restraints only after the appropriate fire clearance, as required by Section 101171, has been secured.

101223	PERSONAL RIGHTS (Continued)	101223
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- (E) The licensing agency shall have the authority to grant conditional and/or limited approvals to use supportive restraints.
- (8) To receive or reject medical care, or health-related services, except for minors for whom a guardian, conservator, or other legal authority has been appointed.
- (b) All children, or their authorized representative(s), shall be personally advised of and given at admission a copy of the rights specified in (a) (1) through (8) above and in the applicable sections of Chapter 2.
- (c) The information specified in (b) above shall be prominently posted in areas accessible to such children and their visitors.
- (d) The licensee shall ensure that each child is accorded the personal rights as specified in this section and the applicable sections of Chapter 2.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.81 and 1597.05, Health and Safety Code.

101224	TELEPHONES	101224
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- (a) All facilities shall have telephone service on the premises.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73 and 1596.81, Health and Safety Code.

101225	TRANSPORTATION	101225
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- (a) Only drivers licensed for the type of vehicle operated shall be permitted to transport children.
- (b) The manufacturer's rated seating capacity of the vehicles shall not be exceeded.
- (c) Motor vehicles used to transport children shall be maintained in a safe operating condition.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73 and 1596.81, Health and Safety Code.

101227 FOOD SERVICE

101227

(a) In facilities providing meals to children, the following shall apply:

- (1) All food shall be safe and of the quality and in the quantity necessary to meet the needs of the children. Each meal shall include, at a minimum, the amount of food components as specified by Title 7, Code of Federal Regulations, Part 226.20, (Revised January 1, 1990) Requirements for Meals, for the age group served. All food shall be selected, stored, prepared and served in a safe and healthful manner.

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(A) REQUIREMENTS FOR MEALS: (as specified by Title 7, Code of Federal Regulations, Part 226.20.)

CHILD CARE INFANT MEAL PATTERN

	Birth through 3 months	4 through 7 months	8 through 11 months
Breakfast	4-6 fl. oz. formula ¹	4-8 fl. oz. formula ¹ or breast milk. 0-3 Tbsp. infant cereal ² (optional).	6-8 fl. oz. formula ¹ , breast milk, or whole milk. 2-4 Tbsp. infant cereal ² . 1-4 Tbsp. fruit and/or vegetable.
Lunch or Supper	4-6 fl. oz. formula ¹	4-8 fl. oz. formula ¹ or breast milk. 0-3 Tbsp. infant cereal ² (optional). 0-3 Tbsp. fruit and/or vegetable (optional).	6-8 fl. oz. formula ¹ , breast milk, or whole milk. 2-4 Tbsp. infant cereal ² and/or 1-4 Tbsp. meat, fish, poultry, egg yolk, or cooked dry beans or peas, or 1/2-2 oz. cheese or 1-4 oz. cottage cheese, cheese food, or cheese spread. 1-4 Tbsp. fruit and/or vegetable.
Supplement	4-6 fl. oz. formula ¹ .	4-6 fl. oz. formula ¹ .	2-4 fl. oz. formula ¹ , breast milk, whole milk, or fruit juice ³ . 0-1/2 bread or 0-2 crackers (optional) ⁴ .

HANDBOOK ENDS HERE

HANDBOOK CONTINUES

- 1 Shall be iron-fortified infant formula.
- 2 Shall be iron-fortified dry infant formula.
- 3 Shall be full-strength fruit juice.
- 4 Shall be from whole-grain or enriched meal or flour.

(NOTE: Caution should be used with foods that can cause choking in young children and infants [under 4 years of age]. Such foods include, but are not limited to, nuts, e.g., peanuts; popcorn; large pieces of raw vegetables; large grapes; and hot dogs.)

BREAKFAST

- (1) The minimum amount of food components to be served as breakfast as set forth in paragraph (a)(1) of [7 CFR, Part 226.20, Revised January 1, 1990] are as follows:

Food Components	Age 1 and 2	Age 3 through 5	Age 6 through 12 ¹
<u>Milk</u>			
Milk, fluid.	1/2 cup ²	3/4 cup	1 cup
<u>Vegetables and Fruits</u>			
Vegetable(s) and/or fruit(s) or Full-strength vegetable or fruit juice or an equivalent quantity of any combination of vegetable(s), fruit(s), and juice	1/4 cup 1/4 cup	1/2 cup 1/2 cup	1/2 cup 1/2 cup

HANDBOOK CONTINUES

101227 FOOD SERVICE (Continued) 101227

HANDBOOK CONTINUES

BREAKFAST (Cont.)

Food Components	Age 1 and 2	Age 3 through 5	Age 6 through 12 ¹
<u>Bread and Bread Alternates³</u>			
Bread	1/2 slice	1/2 slice	1 slice
or Cornbread, biscuits, rolls, muffins, etc. ⁴	1/2 serving	1/2 serving	1 serving
or Cold dry cereal ⁵	1/4 cup or 1/3 oz.	1/3 cup or 1/2 oz.	3/4 cup or 1 oz.
or Cooked cereal	1/4 cup	1/4 cup	1/2 cup
or Cooked pasta or noodle products	1/4 cup	1/4 cup	1/2 cup
or Cooked cereal grains or an equivalent quantity of any combination of bread/bread alternate.	1/4 cup	1/4 cup	1/2 cup

- 1 Children age 12 and up may be served adult size portions based on the greater food needs of older boys and girls, but shall be served not less than the minimum quantities specified in this section for children 6 up to 12.
- 2 For purposes of the requirements outlined in this subsection, a cup means a standard measuring cup.
- 3 Bread, pasta, or noodle products, and cereal grains, shall be wholegrain or enriched; cornbread, biscuits, rolls, muffins, etc., shall be made with wholegrain or enriched meal or flour; cereal shall be wholegrain or enriched or fortified.
- 4 Serving sizes and equivalents to be published in guidance materials by FNS.
- 5 Either volume (cup) or weight (oz.) whichever is less.

(NOTE: Caution should be used with foods that can cause choking in young children and infants [under 4 years of age]. Such foods include, but are not limited to, nuts, e.g., peanuts; popcorn; large pieces of raw vegetables; large grapes; and hot dogs.)

HANDBOOK CONTINUES

HANDBOOK CONTINUES

LUNCH OR SUPPER

(2) The minimum amounts of food components to be served as lunch or supper as set forth in paragraph (a)(2) of ...[7 CFR, Part 226.20, Revised January 1, 1990] are as follows:

Food Components	Age 1 and 2	Age 3 through 5	Age 6 through 12 ¹
<u>Milk</u>			
Milk, fluid.	1/2 cup ²	3/4 cup	1 cup
<u>Vegetables and Fruits³</u>			
Vegetable(s) and/or fruit(s)	1/4 cup total	1/2 cup total	3/4 cup total
<u>Bread and Bread Alternates⁴</u>			
Bread	1/2 slice	1/2 slice	1 slice
or			
Cornbread, biscuits, rolls, muffins, etc. ⁵	1/2 serving	1/2 serving	1 serving
or			
Cooked pasta or noodle products	1/4 cup	1/4 cup	1/2 cup
or			
Cooked cereal grains or an equivalent quantity of any combination of bread/bread alternate.	1/4 cup	1/4 cup	1/2 cup
<u>Meat and Meat Alternates</u>			
Lean meat or poultry or fish ⁶	1 oz.	1-1/2 oz.	2 oz.
or			
Cheese	1 oz.	1-1/2 oz.	2 oz.
or			
Eggs	1 egg	1 egg	1 egg
or			
Cooked dry beans or peas	1/4 cup	3/8 cup	1/2 cup
or			

HANDBOOK CONTINUES

101227 FOOD SERVICE (Continued)

101227

HANDBOOK CONTINUES

LUNCH OR SUPPER (Cont.)

Food Components	Age 1 and 2	Age 3 through 5	Age 6 through 12 ¹
Peanut butter or soynut butter or other nut or seed butters or Peanuts or soynuts or tree nuts or seeds ⁷ or An equivalent quantity of any combination of the above meat/meat alternates.	2 tbsp. 1/2 oz. ⁸ = 50%	3 tbsp. 3/4 oz. ⁸ = 50%	4 tbsp. 1 oz. ⁸ = 50%

- 1 Children age 12 and up may be served adult size portions based on the greater food needs of older boys and girls, but shall be served not less than the minimum quantities specified in this section for children age 6 up to 12.
- 2 For purposes of the requirements outlined in this subsection, a cup means a standard measuring cup.
- 3 Serve 2 or more kinds of vegetable(s) and/or fruit(s). Full-strength vegetable or fruit juice may be counted to meet not more than one-half of this requirement.
- 4 Bread, pasta or noodle products, and cereal grains shall be wholegrain or enriched, cornbread, biscuits, rolls, muffins, etc., shall be made with wholegrain or enriched meal or flour.
- 5 Serving sizes equivalents to be published in guidance materials by FNS.
- 6 Edible portion as served.
- 7 Tree nuts and seeds that may be used as meat alternates are listed in program guidance.
- 8 No more than 50% of the requirement shall be met with nuts or seeds. Nuts or seeds shall be combined with another meat/meat alternate to fulfill the requirement. For purpose of determining combinations, 1 oz. of nuts or seeds is equal to 1 oz. of cooked lean meat, poultry or fish.

(NOTE: Caution should be used with foods that can cause choking in young children and infants [under 4 years of age]. Such foods include, but are not limited to, nuts, e.g., peanuts; popcorn; large pieces of raw vegetables; large grapes; and hot dogs.)

HANDBOOK CONTINUES

HANDBOOK CONTINUES

SUPPLEMENTAL FOOD

(3) The minimum amounts of food components to be served as supplemental food as set forth in paragraph (a)(3) of ...[7 CFR, Part 226.20, Revised January 1, 1990] are as follows. Select two of the following four components. (Juice may not be served when milk is served as the only other component.)

Food Components	Age 1 and 2	Age 3 through 5	Age 6 through 12 ¹
<u>Milk</u>			
Milk, fluid.	1/2 cup ²	1/2 cup	1 cup
<u>Vegetables and Fruits</u>			
Vegetable(s) and/or fruit(s) or Full-strength vegetable or fruit juice or an equivalent quantity of any combination of vegetable(s), fruit(s), and juice.	1/2 cup	1/2 cup	3/4 cup
Bread and Bread Alternates ³			
Bread or Cornbread, biscuits, rolls, muffins, etc. ⁴	1/2 slice	1/2 slice	1 slice
or Cold dry cereal ⁵	1/2 serving	1/2 serving	1 serving
or Cooked cereal	1/4 cup or 1/3 oz.	1/3 cup or 1/2 oz.	3/4 cup or 1 oz.
or Cooked pasta or noodle products	1/4 cup	1/4 cup	1/2 cup
or Cooked cereal grains or an equivalent quantity of any combination of bread/bread alternate.	1/4 cup	1/4 cup	1/2 cup
			1/2 cup

HANDBOOK CONTINUES

101227 FOOD SERVICE (Continued)

101227

HANDBOOK CONTINUES

SUPPLEMENTAL FOOD (Cont.)

Food Components	Age 1 and 2	Age 3 through 5	Age 6 through 12 ¹
<u>Meat and Meat Alternates</u>			
Lean meat or poultry or fish ⁶ or	1/2 oz.	1/2 oz.	1 oz.
Cheese or	1/2 oz.	1/2 oz.	1 oz.
Eggs or	1/2 egg	1/2 egg	1 egg
Cooked dry beans or peas or	1/8 cup	1/8 cup	1/4 cup
Peanut butter or soynut butter or other nut or seed butters or	1 tbsp.	1 tbsp.	2 tbsp.
Peanuts or soynuts or tree nuts or seeds ⁷ or	1/2 oz.	1/2 oz.	1 oz.
Yogurt, plain, or sweetened and flavored or	2 oz. or 1/4 cup	2 oz. or 1/4 cup	4 oz. or 1/2 cup
An equivalent quantity of any combination of the above meat/meat alternates.			

- 1 Children age 12 and up may be served adult size portions based on the greater food needs of older boys and girls, but shall be served not less than the minimum quantities specified in this section for children age 6 up to 12.
- 2 For purposes of the requirements outlined in this paragraph, a cup means a standard measuring cup.
- 3 Bread, pasta or noodle products, and cereal grains shall be wholegrain or enriched, cornbread, biscuits, rolls, muffins, etc., shall be made with wholegrain or enriched meal or flour; cereal shall be wholegrain or enriched or fortified.
- 4 Serving sizes and equivalents to be published in guidance materials by FNS.
- 5 Either volume (cup) or weight (oz.), whichever is less.
- 6 Edible portion as served.
- 7 Tree nuts and seeds that may be used as meat alternates are listed in program guidance.

(NOTE: Caution should be used with foods that can cause choking in young children and infants [under 4 years of age]. Such foods include, but are not limited to, nuts, e.g., peanuts; popcorn; large pieces of raw vegetables; large grapes; and hot dogs.)

HANDBOOK ENDS HERE

101227	FOOD SERVICE (Continued)	101227
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- (2) Where all food is provided by the facility, arrangements shall be made so that each child has available at least three meals per day.
 - (A) Not more than 15 hours shall elapse between the third meal of one day and first meal of the following day.
- (3) Where meal service within a facility is elective, arrangements shall be made to ensure availability of a daily food intake meeting the requirement of (a) (1) above for all children who, in their admission agreement, elect meal service.
- (4) Between meal nourishment or snacks shall be available for all children unless limited by dietary restrictions prescribed by a physician.
- (5) Menus shall be in writing and shall be posted at least one week in advance in an area accessible for review by the child's parent(s) or authorized representatives. Copies of the menus as served shall be dated and kept on file for at least 30 days. Menus shall be made available for review by the child's parent(s) or authorized representatives and the licensing agency upon request.
- (6) Modified diets prescribed by a child's physician as a medical necessity shall be provided.
 - (A) The licensee shall obtain and follow instructions from the physician or dietitian on the preparation of the modified fat.
- (7) Commercial foods shall be approved by appropriate federal, state and local authorities. All foods shall be selected, transported, stored, prepared and served so as to be free from contamination and spoilage and shall be fit for human consumption. Food in damaged containers shall not be accepted, used or retained.

101227	FOOD SERVICE (Continued)	101227
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- (8) Where indicated, food shall be cut, chopped or ground to meet individual needs.
- (9) Powdered milk shall not be used as a beverage but shall be allowed in cooking and baking. Raw milk, as defined in Division 15 of the California Food and Agricultural Code shall not be used. Milk shall be pasteurized.
- (10) Except upon written approval by the licensing agency, meat, poultry and meat food products shall be inspected by state or federal authorities. Written evidence of such inspection shall be available for all products not obtained from commercial markets.
- (11) All home canned foods shall be processed in accordance with standards of the University of California Agricultural Extension Service. Home canned foods from outside sources shall not be used.
- (12) If food is prepared off the facility premises, the following shall apply:
 - (A) The preparation source shall meet all applicable requirements for commercial food services.
 - (B) The facility shall have the equipment and staff necessary to receive and serve the food and for cleanup.
 - (C) The facility shall maintain the equipment necessary for in-house preparation, or have an alternate source for food preparation, and service of food in emergencies.
- (13) All persons engaged in food preparation and service shall observe personal hygiene and food services sanitation practices which protect the food from contamination.
- (14) All foods or beverages capable of supporting rapid and progressive growth of microorganisms which can cause food infections or food intoxications shall be stored in covered containers at 45 degrees F (7.2 degrees C) or less.

101227	FOOD SERVICE (Continued)	101227
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- (15) Pesticides and other similar toxic substances shall not be stored in food storerooms, kitchen areas, food preparation areas, or areas where kitchen equipment or utensils are stored.
- (16) Soaps, detergents, cleaning compounds or similar substances shall be stored in areas separate from food supplies.
- (17) All kitchen, food preparation, and storage areas shall be kept clean, free of litter and rubbish, and measures shall be taken to keep all such areas free of rodents, and other vermin.
- (18) All food shall be protected against contamination. Contaminated food shall be discarded immediately.
- (19) All equipment, fixed or mobile, dishes, and utensils shall be kept clean and maintained in safe condition.
- (20) All dishes and utensils used for eating and drinking and in the preparation of food and drink, shall be cleaned and sanitized after each usage.
 - (A) Dishwashing machines shall reach a temperature of 165 degrees F (74 degrees C) during the washing and/or drying cycle to ensure that dishes and utensils are cleaned and sanitized.
 - (B) Facilities not using dishwashing machines shall clean and sanitize dishes and utensils by an alternative comparable method.
- (21) Equipment necessary for the storage, preparation and service of food shall be provided, and shall be well-maintained.
- (22) Tableware and tables, dishes, and utensils shall be provided in the quantity necessary to serve the children.
- (23) Adaptive devices shall be provided for self-help in eating as needed by children.
- (b) The licensing agency shall have the authority to require the facility to provide written information, including menus, regarding the food purchased and used over a given period when it is necessary to determine if the licensee is in compliance with the food service requirements in the regulations in this Division.
 - (1) The licensing agency shall specify in writing the written information required from the licensee.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.81 and 1597.05, Health and Safety Code.

CHILD DAY CARE		
101228	GENERAL LICENSING REQUIREMENTS	Regulations

101228	PERSONAL SERVICES (RESERVED)	101228
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101229	RESPONSIBILITY FOR PROVIDING CARE AND SUPERVISION	101229
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(a) The licensee shall provide care and supervision as necessary to meet the children's needs.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.81 and 1597.05, Health and Safety Code.

101230	ACTIVITIES (RESERVED)	101230
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Article 7. PHYSICAL ENVIRONMENT

101237 ALTERATIONS TO EXISTING BUILDINGS OR NEW FACILITIES 101237

- (a) Prior to construction or alterations, all licensees shall notify the licensing agency of the proposed change.
- (b) The licensing agency shall have the authority to require that the licensee have a building inspection by a local building inspector if the agency suspects that a hazard to the children's health and safety exists.

HANDBOOK BEGINS HERE

- (c) Prior to construction or alterations, state or local law requires that all facilities secure a building permit.

HANDBOOK ENDS HERE

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73 and 1596.81, Health and Safety Code.

101238 BUILDINGS AND GROUNDS 101238

- (a) The facility shall be clean, safe, sanitary and in good repair at all times for the safety and well-being of children, employees and visitors.
 - (1) The licensee shall take measures to keep the facility free of flies and other insects.
 - (2) The licensee shall provide for the safe disposal of water and other chemicals used for cleaning purposes.
- (b) All children shall be protected against hazards within the facility through provision of the following:
 - (1) Protective devices including but not limited to nonslip material on rugs.
- (c) All outdoor and indoor passageways, stairways, inclines, ramps, open porches and other areas of potential hazard shall be kept free of obstruction.

101238	BUILDINGS AND GROUNDS (Continued)	101238
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- (d) The licensee shall provide an isolation room or area for use by ill children.
- (e) General permanent or portable storage space shall be available for the storage of facility equipment and supplies.
 - (1) Facility equipment and supplies shall be stored in this space and shall not be stored in space used to meet other requirements specified in this chapter and Chapter 2.
- (f) All licensees shall ensure the inaccessibility of pools, including swimming pools (in-ground and above-ground), fixed-in-place wading pools, hot tubs, spas, fish ponds or similar bodies of water through a pool cover or by surrounding the pool with a fence.
 - (1) Fences shall be at least a five feet high and shall be constructed so that the fence does not obscure the pool from view. The bottom and sides of the fence shall comply with Division 1, Appendix Chapter 4 of the 1994 Uniform Building Code. In addition to meeting all of the aforementioned requirements for fences, gates shall swing away from the pool, self-close and have a self-latching device located no more than six inches from the top of the gate. Pool covers shall be strong enough to completely support the weight of an adult and shall be placed on the pool and locked while the pool is not in use.
 - (A) If licensed prior to June 1, 1995, facilities with existing pool fencing shall be exempt from the fencing requirements specified in Section 101238(f)(1) until such fence is replaced or structurally altered. If the licensee replaces or alters the fence, it shall meet the requirements specified in Section 101238(f)(1).
 - (2) Where an above-ground pool structure is used as the fence or where the fence is mounted on top of the pool structure, the pool shall be made inaccessible when not in use by removing or making the ladder inaccessible or erecting a barricade to prevent access to decking. If a barricade is used, the barricade shall meet the requirements of Section 101238(f)(1).
- (g) All in-ground pools, and above-ground pools which cannot be emptied after each use, shall have an operative pump and filtering system.
- (h) Disinfectants, cleaning solutions, poisons, firearms and other items which could pose a danger if readily available to children shall be stored where inaccessible to children.
 - (1) Storage areas for poisons, firearms and other dangerous weapons shall be locked.

101238	BUILDINGS AND GROUNDS (Continued)	101238
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- (2) In lieu of locked storage of firearms, the licensee may use trigger locks or remove the firing pin.
 - (A) Firing pins shall be stored and locked separately from firearms.
- (3) Ammunition shall be stored and locked separately from firearms.
- (i) Medicines shall be stored as specified in Section 101326(e) and separately from other items specified in Section 101238(h) above.
- (j) The items specified in Section 101238(h) above shall not be stored in food storage areas or in storage areas used by or for children.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, and 1596.81, Health and Safety Code.

101239	FIXTURES, FURNITURE, EQUIPMENT AND SUPPLIES	101239
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- (a) A comfortable temperature for children shall be maintained at all times.
 - (1) The licensee shall maintain the temperature in rooms that children occupy between a minimum of 68 degrees F (20 degrees C) and a maximum of 85 degrees F (30 degrees C).
 - (A) In areas of extreme heat, the maximum shall be 20 degrees F (11.1 degrees C) less than the outside temperature.
- (b) All window screens shall be in good repair and be free of insects, dirt and other debris.
- (c) Fireplaces and open-faced heaters shall be made inaccessible to children to ensure protection of the children's safety.

HANDBOOK BEGINS HERE

- (1) The use of a fireplace screen or similar barrier will meet this requirement.

HANDBOOK ENDS HERE

101239	FIXTURES, FURNITURE, EQUIPMENT AND SUPPLIES (Continued)	101239
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- (d) The licensee shall provide lamps or lights as necessary in all rooms and other areas to ensure the comfort and safety of all persons in the facility.
- (e) Faucets used by children for personal care such as shaving and grooming shall deliver hot water.
 - (1) Hot water temperature controls shall be maintained to automatically regulate temperature of hot water delivered to plumbing fixtures used by children to attain a hot water temperature of not less than 105 degrees F (40.5 degrees C) and not more than 120 degrees F (48.8 degrees C).
 - (2) Taps delivering water at 125 degrees F (51.6 degrees C) or above shall be prominently identified by warning signs.
 - (3) All toilets, handwashing and bathing facilities shall be maintained in safe and sanitary operating condition. Additional equipment, aids, and/or conveniences shall be provided in facilities accommodating physically handicapped children who need such items.
- (f) Solid waste shall be stored, located and disposed of in a manner that will not transmit communicable diseases or odors, create a nuisance, or provide a breeding place or food source for insects or rodents.
 - (1) All containers, including movable bins, used for storage of solid wastes shall have tight-fitting covers kept on the containers; shall be in good repair, shall be leakproof and rodent-proof.
 - (2) Solid waste containers, including movable bins, receiving putrescible waste shall be emptied at least once per week or more often if necessary to comply with (f) above.
 - (3) Each movable bin shall provide for suitable access and a drainage device to allow complete cleaning at the storage area.
- (g) The licensee shall provide linens of various kinds necessary to meet the program of services being offered by the facility and the requirements specified in Chapter 2.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73 and 1596.81, Health and Safety Code.